

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-11, 46-53, and 57 are pending in the present application, Claims 1 and 46 having been amended, and Claim 57 having been added. Applicants respectfully submit that support for the present amendment is self-evident from the originally filed specification.¹ No new matter is added.

In the outstanding Office Action, Claims 1-11 were rejected under 35 U.S.C. § 101; Claims 1, 3-11, 46, 48-50 and 53 were rejected under 35 U.S.C. § 103(a) as unpatentable over Erlanger et al. (U.S. Patent No. 6,594,635 B1, hereinafter “Erlanger”) in view of Wu (U.S. Patent No. 7,200,570), and in further view of Kinney, Jr. et al. (U.S. Patent No. 6,871,191, hereinafter Kinney); and Claims 2, 47, 51 and 52 were rejected under 35 U.S.C. § 103(a) as unpatentable over Erlanger, Wu, Kinney, and Klaus (U.S. Patent No. 7,080,020).

Applicants respectfully submit that the amendment to Claim 1 overcomes the rejection under 35 U.S.C. § 101. As suggested by the Office Action, “at” is changed to “by.” Accordingly, this ground of rejection is overcome.

With respect to the rejection of Claim 1 as obvious over Erlanger, Wu and Kinney, Applicants respectfully submit that the amendment to Claim 1 overcomes this ground of rejection. Amended Claim 1 recites, *inter alia*,

ranking, by an auction ranking element engine, the bids of the reinsurees, wherein the ranking of the bids at least considers a calculated profitability value and a time stamp associated with each of the bids an older time stamp resulting in a higher ranking for a given bid and a higher calculated profitability resulting in a higher ranking for a given bid, and where profits for a provider of the reinsurance product are maximized by selecting from pending and newly entered bids, the bids that are most profitable.

¹ See, for example, paragraphs [0019], [0025], and [0029] of the originally filed specification.

Erlanger, Wu and Kinney do not disclose or suggest at least this feature of amended Claim 1.

Erlanger describes a data processing system that receives underwriting standards from a plurality of insurers.² The system of Erlanger compiles a set of statistics in the data processing system based on the underwriting standards from the insurers, and outputs the set of statistics to a selected insurer at a price that is based on a measure of fees earned with respect to the selected insurer.³

Wu describes a general auction system that is not specific to reinsurance products. Wu does not address how capacity and profitability of reinsurance products are considered by an online auction system.

Kinney describes another system for conducting electronic online auctions. The system uses a quantity evaluated rank bidding.⁴ Submitted bids are ordered on a basis of a comparative bid parameter used by an originator of an auction. The quantity required by the originator of the auction is then allocated to the offered quantities of the submitted bids based upon a ranked ordering of the bids.

Only Erlanger is directed to insurance products. A person of ordinary skill in the art knows that, conventionally, profitability of a (re)insurance product is predefined based upon risk calculations. Erlanger does not show that the pricing, *i.e.*, the profitability of a (re)insurance product is dynamically balanced by electronic offers and demands. Erlanger does not show that the pricing of the (re)insurance product is carried out in dynamic manner. Col. 16, lines 43-53 of Erlanger describes that the insurer quotes a price. The consumer can compare prices of insurer A and insurer B, but each insurer sets their price based on risk. There is no disclosure or suggestion that the insurer sets a dynamic price. Moreover, the system of Erlanger seeks to lower prices for insurance products which minimizes the

² Erlanger, abstract.

³ Erlanger, abstract.

⁴ Kinney, abstract.

profitability of the insurer. The invention defined by Claim 1 seeks to maximize profits for the reinsurance product. Thus, Erlanger does not disclose the claimed “where profits for a provider of the reinsurance product are maximized by selecting from pending and newly entered bids, the bids that are most profitable.”

Moreover, the pricing of the reinsurance product in Claim 1 goes against conventional risk only based prices. According to MPEP §2145(X)(D)(3), proceeding contrary to accepted wisdom is evidence of non-obviousness.

Even if a person of ordinary skill in the art would combine Erlanger with Wu and Kinney, the person of ordinary skill in the art could not arrive at the invention defined by Claim 1 since Wu and Kinney do not describe anything regarding the profitability of reinsurance products.

In view of the above-noted deficiencies, a person of ordinary skill in the art cannot combine Erlanger, Wu, and Kinney to arrive at the invention defined by Claim 1. In view of the above-noted distinctions, Claim 1 (and any claims dependent thereon) patentably distinguish over Erlanger, Wu, and Kinney, taken alone or in proper combination. Claim 46, although of a different statutory process, recites elements analogous to those of Claim 1. Thus, Claim 46 (and any claims dependent thereon) patentably distinguish over Erlanger, Wu, Kinney or any proper combination, for at least the reasons stated for Claim 1.

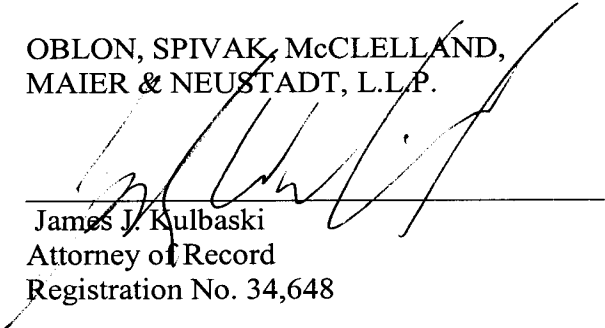
Addressing each of the further rejections, each of the further rejections is also traversed by the present response as no teachings in any of the further cited references to Klaus can overcome the above-noted deficiencies of Kinney, Wu, and Erlanger. Accordingly, it is respectfully requested that those rejections be withdrawn for similar reasons as discussed above.

Furthermore, new Claim 57 further patentably distinguishes over Kinney, Wu, and Erlanger. Providing a variable index as described in Claim 57 is not disclosed by these references.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



James J. Kulbaski
Attorney of Record
Registration No. 34,648

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/09)

Joseph Wrkich
Registration No. 53,796